

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JAMES RICKEY DAVIS	§	
v.	§	CIVIL ACTION NO. 9:09-CV-116
COMMISSIONER, SOCIAL SECURITY ADMINISTRATION	§	
	§	

ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the complaint be dismissed. Plaintiff filed written objections to the Report and Recommendation on February 4, 2011.

Having made a *de novo* review of the objections filed by Plaintiff, the Court finds that the findings, conclusions and recommendation of the Magistrate Judge are correct. Plaintiff contends in his objections that had the ALJ given credence to his testimony regarding his hand pain, the resulting residual functional capacity (“RFC”) may have excluded “some of the jobs described by the [vocational expert].” Objections at 3. However, the ALJ performed a credibility analysis, finding in part that Plaintiff’s activities of daily living and the fact that his arthritis was controlled by medication established that Plaintiff’s subjective testimony of hand pain was not fully credible. The ALJ’s credibility analysis was adequate, his findings within his discretion and is entitled to deference, as the Magistrate Judge found. *Chambliss v. Massanari*, 269 F.3d 520, 522 (5th Cir.2001) (per curiam). Even had the ALJ found otherwise, so as to affect the manual dexterity aspects of Plaintiff’s RFC, the vocational expert identified jobs not requiring manual dexterity, such

as information clerk. Therefore, Plaintiff cannot show that he was prejudiced and his objections are without merit. There is substantial evidence in the record supporting the Commissioner's finding that Plaintiff was not disabled as defined in the Social Security Act during the relevant time period. The findings and conclusions of the Magistrate Judge are therefore adopted as those of the Court.

In light of the foregoing, it is

ORDERED that the complaint is hereby **DISMISSED** with **PREJUDICE**. It is further

ORDERED that any motion not previously ruled on is **DENIED**.

SIGNED this the 28 day of February, 2011.

A handwritten signature in black ink, appearing to read "Thad Heartfield", is written over a horizontal line.

Thad Heartfield
United States District Judge